IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

WP(C).No. 32517 of 2006(U)

PETITIONER:

G.SURESH,
SREENILAYAM, NEDUMON P.O.,
ADOOR.

BY ADV. SRI.ASOK M.CHERIAN

RESPONDENTS:

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1. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
PATHANAMTHITTA.

2. THE TAHSILDAR, (REVENUE RECOVERY),
ADOOR.

3. THE STATE OF KERALA REPRESENTED BY ITS
SECRETARY TO GOVERNMENT LABOUR AND REHABILITATION
(S) DEPARTMENT, THIRUVANANTHAPURAM.

R1 BY SC SRI. P. RAMAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 32517 OF 2006

Dated this the 7th day of December, 2006

JUDGMENT

When the petitioner challenged recovery proceedings for recovery of arrears of motor transport workers welfare fund contribution based on provisional determination order this Court vide Ext.P4 judgment directed completion of final determination after hearing the petitioner. However, later it was noticed that final determination order was already issued before this Court passed Ext.P4 judgment. It is conceded that final determination is only a confirmation of provisional order on account of petitioner's failure to appear and raise his contentions. Petitioner's case is that vehicle purchased by him and operated for some time was repossessed by the financier in the year 1993 on account of non-payment of loan arrears. In the circumstances, I feel petitioner can be given one more opportunity to avail the benefit granted under Ext.P4 judgment, that is a hearing before final determination of liability. In the circumstances, W.P. is disposed of directing the first respondent to recall the final

determination order and give an opportunity to the petitioner to file written objections and to produce documents for establishing his case pertaining to the period of operation, number of employees, etc. First respondent will issue fresh orders in the place of final determination order already issued and issue copy to the petitioner within six weeks from now. Petitioner will produce a copy of this judgment before the first respondent, file his objections, produce copies of documents, take notice of posting and appear before the first respondent on the date of posting given by him. In view of the payment already made by the petitioner, pursuant to Ext.P4 judgment, there will be direction to respondents not to proceed for recovery for two months from now. First respondent will fix the date of hearing and inform the petitioner when he meets him with a copy of this judgment. First respondent will in any case complete the final adjudication proceedings within six weeks from now.

(C.N.RAMACHANDRAN NAIR)
Judge